

ESTTA Tracking number: **ESTTA335540**

Filing date: **03/04/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191251
Party	Defendant RML Jackson, LLC
Correspondence Address	Carol A Genis K & L Gates LLP 70 West Madison, Three First National Plaza, Suite 3300 Chicago, IL 60602 UNITED STATES chicago.trademarks@klgates.com, carol.genis@klgates.com, cristiana.huynh@klgates.com
Submission	Motion to Suspend for Civil Action
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Signature	/ch/
Date	03/04/2010
Attachments	RML Motion to Suspend Proceeding.pdf (60 pages)(1893769 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial Nos. 77/713,053 and 77/713,054

Filed: April 13, 2009

For the Marks: BORN ROGUE and BORNROGUE in International Class 25

Published in the Official Gazette: July 21, 2009

Excelled Sheepskin & Leather Coat Corp.,

Opposer,

vs.

RML Jackson, LLC,

Applicant.

Opposition No. 91191251

United States Patent and Trademark Office

Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, VA 22313-1451

**RML JACKSON, LLC'S MOTION TO SUSPEND PROCEEDING PENDING
OUTCOME OF CIVIL ACTION**

Applicant RML Jackson, LLC ("RML" or "Applicant"), by its undersigned counsel, K&L Gates LLP, hereby moves the Trademark Trial and Appeal Board pursuant to 37 C.F.R. § 2.117(a) to suspend the above-captioned opposition proceeding until the final determination of *RML Jackson LLC v. Excelled Sheepskin & Leather Coat Corporation et al*, No. CV 09 07823 DSF (CWx) (the "Civil Action"), because the Civil Action will have a bearing on the proceeding.

**I.
INTRODUCTION**

On July 28, 2009, Opposer filed a Notice of Opposition against RML's BORNROGUE and BORN ROGUE trademark applications. In its Notice of Opposition, Opposer contends that application of the marks BORNROGUE and BORN ROGUE should be refused pursuant to: (1)

Section 2(d) of the Lanham Act, on the grounds that the marks BORNROGUE and BORN ROGUE so closely resemble Opposer's alleged ROGUE, REILLY OLMES ROGUE LEATHER and ROGUE LEATHER BY REILLY OLMES marks such that use and registration of the BORNROGUE and BORN ROGUE marks is likely to cause confusion, mistake and deception as to the source or origin of Applicant's goods and will consequently injure and damage the goodwill and reputation symbolized by Opposer's marks; and (2) Section 2(a) of the Lanham Act, on the grounds that Applicant's mark so closely resembles Opposer's ROGUE, REILLY OLMES ROGUE LEATHER and ROGUE LEATHER BY REILLY OLMES marks such that Applicant's BORNROGUE and BORN ROGUE marks are likely to cause deception in violation of Section 2(a) of the Trademark Act.

On October 27, 2009, RML filed suit against Opposer in the United States District Court, Central District of California, Los Angeles seeking a declaration that RML's use of the marks BORNROGUE and BORN ROGUE, including the advertising, promotion and sale of clothing bearing the BORN ROGUE and BORNROGUE marks, does not constitute trademark infringement of Opposer's marks under Section 32(1) of the Lanham Act, trademark dilution under Section 43(c) of the Lanham Act, or unfair competition under Section 43(a) of the Lanham Act. Applicant's Amended Complaint, filed on December 16, 2009, is attached hereto as Exhibit A.

II. **ARGUMENT**

If it comes to the attention of the Board that a party or parties to a case pending before the Board are involved in a civil action that may have bearing on the Board case, the Board has the authority to suspend the proceeding until the final determination of the civil action. 37 CFR § 2.117; TMBP § 510.02(a). The rationale is that to the extent that a civil action in a Federal

district court involves issues in common with those in a proceeding before the Board, the decision of the Federal district court is often binding on the Board, while the decision of the Board is not binding upon the court. TMBP § 510.02(a); *see e.g., Goya Foods Inc. v. Tropicana Products, Inc.*, 846 F.2d 848, 6 U.S.P.Q.2d 1950, 1954 (2d Cir. 2988).

Applicant and Opposer are both parties to the Civil Action. The Civil Action involves the identical trademarks that are at issue in the instant proceeding, namely Applicant's BORNROGUE and BORN ROGUE marks and Opposer's alleged ROGUE, REILLY OLMES ROGUE LEATHER and ROGUE LEATHER BY REILLY OLMES marks. The Civil Action will determine whether the BORNROGUE and BORN ROGUE marks are confusingly similar to, or otherwise infringe, Opposer's ROGUE, REILLY OLMES ROGUE LEATHER and ROGUE LEATHER BY REILLY OLMES marks. Accordingly, the rulings and findings in the Civil Action will have a bearing on, if not be dispositive of, the principal issues involved in this opposition proceeding. Applicant seeks to suspend this opposition proceeding to avoid the unnecessary burden on the Board and the parties of litigating in multiple proceedings. As such, it is in the interest of judicial economy that the Board suspend this opposition proceeding until the final determination of the Civil Action.

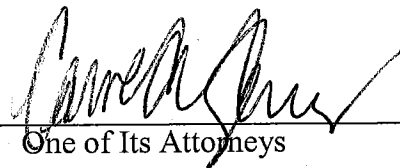
III.

CONCLUSION

WHEREFORE, for the reasons stated herein, Applicant respectfully requests that the Board suspend the above-captioned opposition proceeding pending the disposition of the Civil Action.

Dated: March 4, 2010.

RML JACKSON, LLC
Applicant

By: 
One of Its Attorneys

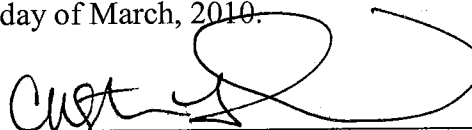
Carol A. Genis, Esq.
Christian G. Stahl, Esq.
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Chicago, Illinois 60602
(312) 807-4272

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that she caused a copy of **RML JACKSON, LLC'S MOTION TO SUSPEND PROCEEDING PENDING OUTCOME OF CIVIL ACTION** to be served upon:

Michael A. Grow, Esq.
Arent Fox LLP
1050 Connecticut Avenue, NW
Washington, DC 20036

by first class mail, proper postage prepaid, this 4th day of March, 2010.

A handwritten signature in black ink, appearing to read 'Cristiana N. Huynh', is written over a horizontal line.

Cristiana N. Huynh, Esq.

EXHIBIT A

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23 Attorneys for Plaintiff
24 RML JACKSON, LLC

25 **UNITED STATES DISTRICT COURT**
26 **CENTRAL DISTRICT OF CALIFORNIA**

27 RML JACKSON, LLC, a California
28 limited liability company,

Plaintiff,

v.

EXCELLED SHEEPSKIN &
LEATHER COAT CORPORATION,

Defendant.

CASE NO. CV09-07823 DSF (CWx)
FIRST AMENDED COMPLAINT
FOR DECLARATORY RELIEF
DEMAND FOR JURY TRIAL

1 Plaintiff RML JACKSON, LLC (“RML” or “Plaintiff”), by and through its
2 attorneys, hereby complains against the Defendant EXCELLED SHEEPSKIN &
3 LEATHER COAT CORPORATION as follows:

4
5 **JURISDICTION AND VENUE**

6 1. Plaintiff’s claims arise under the Trademark Act of 1946, 15 U.S.C. §
7 1051, *et seq.* (the “Lanham Act”). This Court has subject matter jurisdiction over the
8 claims in this action which relate to trademark infringement and false designation of
9 origin pursuant to the provisions of 28 U.S.C. §§ 1331, 1332, and 1338 and 15 U.S.C.
10 § 1121 and declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.
11

12 2. On information and belief, this Court has personal jurisdiction over
13 Defendant because Defendant’s activities in this state and in this judicial district are
14 substantial, continuous and systematic, as Defendant offers its products for sale
15 throughout this state and this judicial district. On information and belief, Defendant
16 has purposefully availed itself of the privilege of conducting business in this state.
17 Further, Plaintiff’s claims arise from Defendant’s activities in this state and this
18 judicial district, including Defendant’s marketing and sales efforts in this state and
19 judicial district and Defendant’s threats directed at Plaintiff in this state and this
20 judicial district.
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25 3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)
26 because a substantial part of the events or omissions giving rise to Plaintiff’s claims
27 occurred in this district.
28

NATURE OF ACTION

4. This is an action for declaratory relief under the Lanham Act and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, brought for the purpose of resolving an actual controversy between the parties and seeking the remedies and relief provided in 28 U.S.C. §§ 2201-02 and 15 U.S.C. § 1051 *et seq.*

5. This controversy arises from Defendant's cease and desist letter dated June 10, 2009 and filing of a trademark opposition proceeding with the Trademark Trial and Appeal Board against Plaintiff's approved trademark applications (Serial Nos. 77/713,053 and 77/713,054), asserting that Plaintiff's intended use and registration of the trademarks BORN ROGUE and BORNROGUE in connection with various articles of clothing will result in consumer confusion, mistake or deception as to the source of origin of the parties' respective clothing products. To preserve and protect Plaintiff's ongoing business concerns, Plaintiff respectfully requests that the Court enter a judgment finding that use by Plaintiff of the trademarks BORN ROGUE and BORNROGUE does not rise to an actionable violation of Defendant's alleged rights.

THE PARTIES

6. Plaintiff is a California limited liability company, with a principal place of business located at 8899 Beverly Boulevard, Suite 510, West Hollywood, California, 90048. Plaintiff is, and at all times mentioned herein was, qualified to do business in California. Plaintiff is a wholly-owned subsidiary of Relativity Media

1 LLC (“Relativity”), a California limited liability company engaged in the business of
2 producing, financing and distributing motion pictures and providing entertainment and
3 merchandising goods and services in connection therewith throughout the United
4 States and, specifically, within the jurisdiction of this Court. Plaintiff is a holding
5 company which owns certain of Relativity’s and its other wholly-owned subsidiaries’
6 intellectual property, including but not limited to the marks BORN ROGUE and
7 BORNROGUE.
8
9

10 7. Defendant is a corporation organized under the laws of the State of New
11 Jersey. Upon information and belief, at all times relevant hereto, Defendant has been
12 engaged in the business of manufacturing and distributing clothing products, including
13 within this judicial district.
14

15 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**
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17 8. Relativity is an independent media and entertainment conglomerate and a
18 prolific industry leader in motion picture production, financing and distribution. To
19 date, Relativity has committed to, produced and/or financed more than 200 studio-
20 quality motion pictures, including films such as *Atonement*, *American Gangster*, *3:10*
21 *to Yuma*, *Mama Mia!*, *Hancock*, *Charlie Wilson’s War* and *Public Enemies*. In
22 addition to the business of producing, financing and distributing motion pictures,
23 Relativity is also engaged in merchandising goods and services throughout the United
24 States.
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1 9. In December 2008, Relativity, through its subsidiary, Relativity Rogue,
2 LLC (“Relativity Rogue”), acquired ROGUE PICTURES from NBC Universal and its
3 affiliates. Plaintiff, along with Relativity Rogue and certain other wholly-owned
4 subsidiaries of Relativity form Relativity’s “Rogue Division” (these parties are
5 collectively referred to herein as the “Rogue Division”). Relativity’s Rogue Division
6 has at least seventeen major motion pictures in its film library and many more in
7 development and/or various states of production. These films include *The Strangers*,
8 *The Unborn*, a remake of *Last House on the Left* and *Fighting*.

11 10. Through its acquisition of ROGUE PICTURES, Relativity Rogue also
12 acquired the trademark ROGUE PICTURES for use in connection with entertainment
13 services. Relativity Rogue and Relativity Rogue’s predecessor-in-interest, NBC
14 Universal and affiliates, have used the ROGUE PICTURES mark since at least as
15 early as October 1, 1998 and has enjoyed continuous and exclusive use of the ROGUE
16 PICTURES mark since that time. Indeed, Relativity Rogue owns a federal trademark
17 registration for the mark ROGUE PICTURES (Reg. No. 2,531,913) for use in
18 connection with “entertainment services, namely, production and distribution of
19 audiovisual works, namely, full length motion picture films; production and
20 distribution of audiovisual works, namely, full length motion picture films; production
21 and distribution of audiovisual works, namely, full length motion picture films, for
22 television, cable and theatrical release.” A true and correct copy of a printout from the
23 United States Patent and Trademark Office (“USPTO”) evidencing Plaintiff’s federal
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1 trademark registration for the ROGUE PICTURES mark is attached hereto as Exhibit
2 1.

3 11. The ROGUE PICTURES mark is well-known and famous. From the
4 highly successful ROGUE PICTURES label (which has generated more than \$500
5 million at the world-wide box office) and adding to the interactivity with
6 entertainment, pop culture and fashion, Relativity's Rogue Division, including
7 Plaintiff, are working in concert to launch and market ROGUE, the next-generation
8 lifestyle brand.
9

10 11. As part of the development of the ROGUE lifestyle brand, on April 13,
11 2009 Plaintiff applied to register the trademark BORN ROGUE (Appl. No.
12 77/713,053) and BORNROGUE (Appl. No. 77/713,054) with the USPTO for use in
13 connection with various articles of clothing. A true and correct copy of printouts from
14 the USPTO evidencing Plaintiff's federal trademark applications for the BORN
15 ROGUE and BORNROGUE marks are attached hereto as Exhibit 2. On June 15,
16 2009, these applications were approved by the USPTO for publication without citation
17 to any third party mark, including any mark owned or purported to be owned by
18 Defendant.
19

20 13. On June 10, 2009, long after the registration of the ROGUE PICTURES
21 mark, and long after the ROGUE PICTURES mark became incontestable pursuant to
22 15 U.S.C. § 1065, Defendant sent a cease and desist letter to Plaintiff claiming that it
23 owned certain trademarks and that Plaintiff's intended use and attempted registration
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of the term “BORN ROGUE” would be likely to cause confusion, mistake or deception among prospective purchasers. In that letter, Defendant demanded that Plaintiff “immediately abandon its applications and refrain from any use of ROGUE and any similar names or marks including marks incorporating ROGUE such as BORN ROGUE.” In addition, Defendant demanded a reply within ten days of Plaintiff’s receipt of the letter. A true and correct copy of the June 10, 2009 letter is attached hereto as Exhibit 3.

14. Upon information and belief, Defendant purports to own the following federal trademark registrations and application (all of which allege a first use date SUBSEQUENT to the first use of Plaintiff’s ROGUE PICTURES mark):

TRADEMARK	APPL/REG. NO.	REG. DATE	GOODS
ROGUE LEATHER BY REILLY OLMES	2,790,074	12/09/2003	Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants
REILLY OLMES ROGUE LEATHER	2,815,985	02/24/2004	Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants
ROGUE	3,260,143	07/10/2007	Footwear
ROGUE	3,346,559	12/04/2007	Men's, ladies' and children's clothing, namely, coats, jackets, vests, shirts and pants
ROGUE	77/706,222	Filed: 04/03/2009	Hats

1 True and correct copies of printouts from the USPTO evidencing Defendant's federal
2 trademark registrations and application are attached hereto as Exhibit 4 (collectively
3 referred to as the "Defendant's Marks").

4
5 15. Plaintiff's BORN ROGUE and BORNROGUE applications were
6 published for opposition on July 21, 2009. On July 28, 2009, Defendant filed a Notice
7 of Opposition against Plaintiff's BORN ROGUE and BORNROGUE marks
8 (Opposition No. 91191251), alleging a likelihood of confusion with its U.S. Federal
9 Registration Nos. 2,790,074; 2,815,985; and 3,346,559, and also alleging deception
10 and a false suggestion of connection between Plaintiff's BORN ROGUE and
11 BORNROGUE marks and Defendant. A true and correct copy of Defendant's Notice
12 of Opposition is attached hereto as Exhibit 5.

13
14
15 16. Plaintiff has not yet used the BORN ROGUE and BORNROGUE marks
16 in commerce in connection with clothing products but is in the final stages of
17 development.

18
19 17. Plaintiff's BORN ROGUE and BORNROGUE marks and the
20 Defendant's Marks are distinct in sound, appearance, and meaning as applied to their
21 respective goods and are not likely to be confused or mistaken, particularly given
22 Plaintiff's association with Relativity Rogue's well known and incontestable ROGUE
23 PICTURES mark, which has priority over the Defendant's Marks.
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CLAIM FOR RELIEF

(Declaratory Judgment In Favor of Plaintiff And Against Defendant's Claims of Trademark Infringement, Dilution of Trademark, and/or Federal Unfair Competition)

18. Plaintiff restates and incorporates by reference Paragraphs 1 - 17 as if set forth fully herein.

19. Defendant sent a cease and desist letter to Plaintiff on June 10, 2009 alleging trademark infringement against Plaintiff and demanding that Plaintiff *immediately* abandon its applications and refrain from any use of the BORN ROGUE mark. In addition, Defendant has initiated an opposition proceeding against Plaintiff's applications for the BORN ROGUE and BORNROGUE marks, alleging a likelihood of confusion, deception and a false suggestion of a connection between Plaintiff's BORN ROGUE and BORNROGUE marks and Defendant. Based upon these allegations, Defendant threatened to prevent Plaintiff from using and registering the BORN ROGUE and BORNROGUE marks and to "pursue all of the remedies afforded by law" to protect Defendant's alleged rights in the Defendant's Marks.

20. Defendant's threats, invoking the language of trademark infringement, trademark dilution and unfair competition, have given Plaintiff a reasonable apprehension that Defendant will sue Plaintiff for trademark infringement under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), for trademark dilution under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and/or for unfair competition under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) if Plaintiff continues its

1 activities, including using and promoting its BORN ROGUE and BORNROGUE
2 marks.

3 21. Plaintiff's activities do not constitute trademark infringement, trademark
4 dilution or unfair competition and Defendant is not entitled to relief based on
5 Plaintiff's lawful use of its BORN ROGUE and BORNROGUE marks.
6

7 22. A justiciable controversy exists between Plaintiff and Defendant
8 concerning Plaintiff's lawful use of its BORN ROGUE and BORNROGUE marks.
9

10 23. Plaintiff seeks a declaratory judgment from this Court finding and
11 declaring that Plaintiff's use of BORN ROGUE and BORNROGUE in connection
12 with clothing does not constitute trademark infringement, unfair competition,
13 trademark dilution, or rise to any actionable violation of Defendant's alleged rights in
14 and to the Defendant's Marks.
15

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully requests that the Court enter judgment:
19

20 A. In favor of Plaintiff declaring that Plaintiff's above-referenced
21 conduct, including its advertising, promotion and sale of clothing bearing the BORN
22 ROGUE and BORNROGUE marks, does not constitute trademark infringement under
23 Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), trademark dilution under
24 Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), or unfair competition under
25 Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);
26
27
28

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, and Local Rule 38-1, Plaintiff hereby demands a jury trial on all issues so triable.

Dated: December 16, 2009

K&L GATES LLP

By: _____/s_____
Dennis M. P. Ehling, Esq.
Attorney for Plaintiff
RML JACKSON, LLC

RML JACKSON, LLC
v.
EXCELLED SHEEPSKIN & LEATHER COAT CORPORATION
USDC, Central District of California

COMPLAINT FOR DECLARATORY RELIEF

EXHIBIT 1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-26 14:41:52 ET

Serial Number: 76192118 Assignment Information Trademark Document Retrieval

Registration Number: 2531913

Mark (words only): ROGUE PICTURES

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2007-07-13

Filing Date: 2001-01-10

Transformed into a National Application: No

Registration Date: 2002-01-22

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-07-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. RELATIVITY ROGUE, LLC

Address:

RELATIVITY ROGUE, LLC
8899 BEVERLY BOULEVARD SUITE 510
WEST HOLLYWOOD, CA 90048
United States

Legal Entity Type: Limited Liability Company
State or Country Where Organized: California

GOODS AND/OR SERVICES

International Class: 041
Class Status: Active

ENTERTAINMENT SERVICES, NAMELY, PRODUCTION AND DISTRIBUTION OF AUDIOVISUAL WORKS, NAMELY, FULL LENGTH MOTION PICTURE FILMS; PRODUCTION AND DISTRIBUTION OF AUDIOVISUAL WORKS, NAMELY, FULL LENGTH MOTION PICTURE FILMS; PRODUCTION AND DISTRIBUTION OF AUDIOVISUAL WORKS, NAMELY, FULL LENGTH MOTION PICTURE FILMS, FOR TELEVISION, CABLE AND THEATRICAL RELEASE

Basis: 1(a)

First Use Date: 1998-10-01

First Use in Commerce Date: 1998-10-01

ADDITIONAL INFORMATION

Disclaimer: "PICTURES"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-07-31 - Attorney Revoked And/Or Appointed

2009-07-31 - TEAS Revoke/Appoint Attorney Received

2009-07-31 - Attorney Revoked And/Or Appointed

2009-07-31 - TEAS Revoke/Appoint Attorney Received

2009-01-14 - Automatic Update Of Assignment Of Ownership

2008-12-24 - Assignment Of Ownership Not Updated Automatically

2008-12-17 - Automatic Update Of Assignment Of Ownership

2007-07-13 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-04-10 - Case File In TICS

2007-02-21 - Section 8 (6-year) and Section 15 Filed

2007-02-21 - PAPER RECEIVED

2006-08-19 - Review Of Correspondence Complete

2003-03-03 - PAPER RECEIVED

2002-01-22 - Registered - Principal Register

2001-10-30 - Published for opposition

2001-10-10 - Notice of publication

2001-05-17 - Approved for Pub - Principal Register (Initial exam)

2001-05-14 - Examiner's amendment mailed

2001-05-02 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Anthony M. Keats

Correspondent

Anthony M. Keats

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RML JACKSON, LLC
v.
EXCELLED SHEEPSKIN & LEATHER COAT CORPORATION
USDC, Central District of California

COMPLAINT FOR DECLARATORY RELIEF

EXHIBIT 2

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-26 11:54:01 ET

Serial Number: 77713053 Assignment Information

Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

BORN ROGUE

(words only): BORN ROGUE

Standard Character claim: Yes

Current Status: An opposition is now pending at the Trademark Trial and Appeal Board.

Date of Status: 2009-07-28

Filing Date: 2009-04-13

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 115

Attorney Assigned:
SOUDERS MICHAEL J

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-06-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. RML Jackson, LLC

Address:

RML Jackson, LLC
8899 Beverly Blvd., Suite 510
Los Angeles, CA 90048
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: California

Phone Number: 310.859.1250

Fax Number: 310.859.1254

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

Beachwear; Belts; Blouses; Boots; Bottoms; Caps; Coats; Dresses; Footwear; Foul weather gear; Gloves; Hats; Headwear; Hosiery; Jackets; Jeans; Lingerie; Mittens; Neckties; Neckwear; Nightwear; Pajamas; Pants; Pullovers; Rainwear; Robes; Scarves; Shirts; Shoes; Shorts; Skirts; Skorts; Slippers; Sneakers; Socks; Sweat shirts; Sweaters; Swimwear; T-shirts; Ties; Track suits; Undergarments; Vests; Visors

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-07-28 - Attorney Revoked And/Or Appointed

2009-07-28 - TEAS Revoke/Appoint Attorney Received

2009-07-28 - Opposition instituted for Proceeding

2009-07-28 - Opposition papers filed

2009-07-21 - Published for opposition

2009-07-01 - Notice of publication

2009-06-18 - Law Office Publication Review Completed

2009-06-17 - Assigned To LIE

2009-06-15 - Approved for Pub - Principal Register (Initial exam)

2009-06-15 - Assigned To Examiner

2009-04-16 - New Application Office Supplied Data Entered In Tram

2009-04-16 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Anthony M. Keats

Correspondent

Carol A Genis

K & L Gates LLP

70 West Madison, Suite 3100

Chicago, IL 60602

Phone Number: 310-248-3830

Fax Number: 310-860-0363

Thank you for your request. Here are the latest results from the TARR web server.

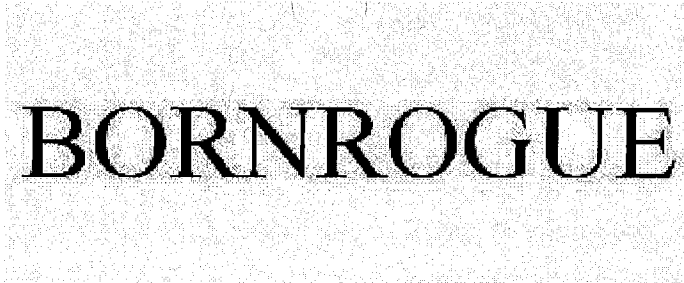
This page was generated by the TARR system on 2009-10-26 11:53:54 ET

Serial Number: 77713054 Assignment Information

Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark



(words only): BORNROGUE

Standard Character claim: Yes

Current Status: An opposition is now pending at the Trademark Trial and Appeal Board.

Date of Status: 2009-07-28

Filing Date: 2009-04-13

Filed as TEAS Plus Application: Yes

Currently TEAS Plus Application: Yes

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 115

Attorney Assigned:
SOUDERS MICHAEL J

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-06-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. RML Jackson, LLC

Address:

RML Jackson, LLC
8899 Beverly Blvd., Suite 510
Los Angeles, CA 90048
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: California

Phone Number: 310.859.1250

Fax Number: 310.859.1254

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

Beachwear; Belts; Blouses; Boots; Bottoms; Caps; Coats; Dresses; Footwear; Foul weather gear; Gloves; Hats; Headwear; Hosiery; Jackets; Jeans; Lingerie; Mittens; Neckties; Neckwear; Nightwear; Pajamas; Pants; Pullovers; Rainwear; Robes; Scarves; Shirts; Shoes; Shorts; Skirts; Skorts; Slippers; Sneakers; Socks; Sweat shirts; Sweaters; Swimwear; T-shirts; Ties; Track suits; Undergarments; Vests; Visors

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-07-28 - Attorney Revoked And/Or Appointed

2009-07-28 - TEAS Revoke/Appoint Attorney Received

2009-07-28 - Opposition instituted for Proceeding

2009-07-28 - Opposition papers filed

2009-07-21 - Published for opposition

2009-07-01 - Notice of publication

2009-06-18 - Law Office Publication Review Completed
2009-06-17 - Assigned To LIE
2009-06-15 - Approved for Pub - Principal Register (Initial exam)
2009-06-15 - Assigned To Examiner
2009-04-17 - Notice Of Pseudo Mark Mailed
2009-04-16 - New Application Office Supplied Data Entered In Tram
2009-04-16 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Anthony M. Keats

Correspondent

Carol A Genis
K & L Gates LLP
70 West Madison, Suite 3100
Chicago, IL 60602
Phone Number: 310-248-3830
Fax Number: 310-860-0363

RML JACKSON, LLC
v.
EXCELLED SHEEPSKIN & LEATHER COAT CORPORATION
USDC, Central District of California

COMPLAINT FOR DECLARATORY RELIEF

EXHIBIT 3

/ Washington, DC / New York, NY / Los Angeles, CA

Arent Fox

June 10, 2009

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael A. Grow
Attorney
202.857.6389 DIRECT
grow.michael@arentfox.com

Diane L. Gardner, Esq.
Mastermind IP Law P.C.
421 Santa Marina Court
Escondido, California 92029

Re: Application No. 77/698597 - ROGUE
Application No. 77/713053 - BORN ROGUE
Filed by RML Jackson, LLC
Our File: 019516.00017.05.001

RECEIVED
JUN 16 2009
Mastermind IP Law

Dear Ms. Gardner:

We represent Excelled Sheepskin & Leather Coat Corp. ("Excelled") of New York City in matters pertaining to its intellectual property rights. Among the trademarks owned by our client is ROGUE for clothing which has been registered with the Patent and Trademark Office.

Recently, it has come to our attention that your client RML Jackson, LLC ("RML") has filed unauthorized applications for registration of the marks ROGUE and BORN ROGUE for various items of wearing apparel. The fact that RML has ordered products bearing the mark ROGUE from Excelled does not give your client the right to register that mark. Indeed, the fact that your client filed applications to register marks containing ROGUE while it was negotiating with Excelled is evidence of bad faith on RML's part. Any use of the mark ROGUE by your client is likely to cause confusion, mistake or deception among prospective purchasers. Accordingly, we must insist that your client immediately abandon its applications and refrain from any use of ROGUE and any similar names or marks including marks incorporating ROGUE such as BORN ROGUE.

Federal law provides for imposition of severe penalties against those who make unauthorized use of registered marks. Among other things, the courts may require a defendant to pay for all damages caused by the infringement, all profits derived from the unauthorized use of the

TECH/710436.1
SMART

1050 Connecticut Avenue, NW
Washington, DC 20036-5324
T 202.657.6000 F 202.657.6395

1875 Broadway
New York, NY 10019-5820
T 212.454.3960 F 212.464.3990

555 West Fifth Street, 48th Floor
Los Angeles, CA 90013-1065
T 213.629.7400 F 213.629.7401

June 10, 2009

Page 2

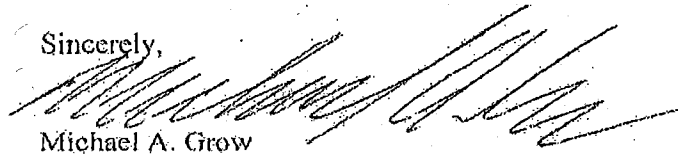
Arent Fox

plaintiff's mark, court costs and attorneys' fees. The courts also have the authority to treble the amount of such damage awards.

We trust you will understand the seriousness of this matter and, therefore, we ask that you respond within ten (10) days as to whether your client is willing to voluntarily abandon its applications and agree not to use the name or mark ROGUE. While we would prefer to resolve this matter amicably, we will have no alternative but to pursue all of the remedies afforded by law if we do not hear from you promptly.

This is not intended as a complete recitation of all relevant facts and our client reserves all of its rights.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Grow", is written over the typed name.

Michael A. Grow

cc: Mr. William Goldman

TECH/710436.1

RML JACKSON, LLC
v.
EXCELLED SHEEPSKIN & LEATHER COAT CORPORATION
USDC, Central District of California

COMPLAINT FOR DECLARATORY RELIEF

EXHIBIT 4

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-26 11:55:05 ET

Serial Number: 76030034 Assignment Information Trademark Document Retrieval

Registration Number: 2790074

Mark (words only): ROGUE LEATHER BY REILLY OLMES

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-12-09

Filing Date: 2000-04-19

Transformed into a National Application: No

Registration Date: 2003-12-09

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-12-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Excelled Sheepskin & Leather Coat Corp.

Address:

Excelled Sheepskin & Leather Coat Corp.

350 Fifth Avenue

New York, NY 10118

United States

Legal Entity Type: Corporation

State or Country of Incorporation: New Jersey

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants

Basis: 1(a)

First Use Date: 2000-01-10

First Use in Commerce Date: 2000-01-10

ADDITIONAL INFORMATION

Disclaimer: "LEATHER"

Name Portrait Consent: The name "REILLY OLMES" does not identify a living individual.

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2003-12-09 - Registered - Principal Register
2003-09-16 - Published for opposition
2003-08-27 - Notice of publication
2003-07-25 - Approved for Pub - Principal Register (Initial exam)
2003-07-03 - Case File In TICRS
2003-06-30 - Jurisdiction Restored To Examining Attorney
2003-06-30 - Ex parte appeal terminated
2002-05-30 - Continuation of final refusal mailed
2002-04-12 - Communication received from applicant
2002-04-12 - PAPER RECEIVED
2002-03-11 - Non-final action mailed
2002-03-04 - Jurisdiction Restored To Examining Attorney
2002-03-04 - Ex parte appeal - Instituted
2001-08-07 - Final refusal mailed

2001-05-16 - Communication received from applicant

2000-11-15 - Non-final action mailed

2000-09-25 - Assigned To Examiner

2000-09-22 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Michael A. Grow

Correspondent

MICHAEL A. GROW

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC

1050 CONNECTICUT AVENUE, NW

WASHINGTON, DC 20036

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-26 11:55:10 ET

Serial Number: 76030032 Assignment Information Trademark Document Retrieval

Registration Number: 2815985

Mark (words only): REILLY OLMES ROGUE LEATHER

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-02-24

Filing Date: 2000-04-19

Transformed into a National Application: No

Registration Date: 2004-02-24

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-06-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Excelled Sheepskin & Leather Coat Corp.

Address:

Excelled Sheepskin & Leather Coat Corp.
350 FIFTH AVENUE
New York, NY 10118
United States

Legal Entity Type: Corporation

State or Country of Incorporation: New Jersey

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants

Basis: 1(a)

First Use Date: 2000-02-18

First Use in Commerce Date: 2000-02-18

ADDITIONAL INFORMATION

Disclaimer: "Leather"

Name Portrait Consent: The name "REILLY OLMES" does not identify a living individual.

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-06-18 - Case File In TIGRS

2004-02-24 - Registered - Principal Register

2003-12-02 - Published for opposition

2003-11-12 - Notice of publication

2003-09-24 - Approved for Pub - Principal Register (Initial exam)

2003-09-03 - Assigned To Examiner

2003-08-06 - Ex parte appeal terminated

2002-10-01 - Examiner's statement mailed

2002-09-27 - Examiner's statement mailed

2002-09-27 - Assigned To Examiner

2002-09-05 - Jurisdiction Restored To Examining Attorney

2002-07-29 - PAPER RECEIVED

2002-05-21 - Continuation of final refusal mailed

2002-04-12 - Communication received from applicant

2002-04-12 - PAPER RECEIVED
2002-03-11 - Non-final action mailed
2002-03-04 - Jurisdiction Restored To Examining Attorney
2002-03-04 - Ex parte appeal - Instituted
2001-08-07 - Final refusal mailed
2001-05-15 - Communication received from applicant
2000-11-15 - Non-final action mailed
2000-09-25 - Assigned To Examiner
2000-09-22 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

MICHAEL A GROW

Correspondent

MICHAEL A GROW
ARENT FOX KINTNER & KAHN PLLC
1050 CONNECTICUT AVE NW
WASHINGTON DC 20036-5303

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-26 11:54:45 ET

Serial Number: 78712161 Assignment Information

Trademark Document Retrieval

Registration Number: 3260143

Mark



(words only): ROGUE

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-07-10

Filing Date: 2005-09-13

Transformed into a National Application: No

Registration Date: 2007-07-10

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-07-10

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. EXCELLED SHEEPSKIN & LEATHER COAT CORP.

Address:

EXCELLED SHEEPSKIN & LEATHER COAT CORP.
485 7H AVENUE

NEW YORK, NY 10018

United States

Legal Entity Type: Corporation

State or Country of Incorporation: New Jersey

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

Footwear

Basis: 1(a)

First Use Date: 2005-07-12

First Use in Commerce Date: 2005-07-12

ADDITIONAL INFORMATION

Prior Registration Number(s):

1355508

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-09-26 - Automatic Update Of Assignment Of Ownership

2007-09-19 - Automatic Update Of Assignment Of Ownership

2007-07-10 - Registered - Principal Register

2007-05-02 - Opposition terminated for Proceeding

2007-05-02 - Opposition dismissed for Proceeding

2006-08-29 - Opposition instituted for Proceeding

2006-08-29 - Opposition papers filed

2006-08-15 - Published for opposition

2006-07-26 - Notice of publication

2006-05-27 - Law Office Publication Review Completed

2006-05-26 - Approved for Pub - Principal Register (Initial exam)

2006-05-26 - Examiner's Amendment Entered

2006-05-26 - EXAMINERS AMENDMENT E-MAILED

2006-05-26 - Examiners Amendment -Written

2006-05-26 - Previous Allowance Withdrawn-Timely Aau

2006-05-12 - Assigned To LIE

2006-05-07 - Approved for Pub - Principal Register (Initial exam)

2006-04-21 - Amendment From Applicant Entered

2006-04-05 - Communication received from applicant

2006-04-05 - PAPER RECEIVED

2006-03-30 - Non-final action e-mailed

2006-03-30 - Non-Final Action Written

2006-03-30 - Amendment to Use approved

2006-03-22 - Assigned To Examiner

2005-10-11 - Applicant amendment prior to exam entered

2005-10-31 - Amendment to use processing complete

2005-10-11 - Amendment to Use filed

2005-10-11 - PAPER RECEIVED

2005-09-21 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Charles D. McClung

Correspondent

CHARLES D. MCCLUNG

CHERNOFF, VILHAUER, MCCLUNG & STENZEL

601 S.W. SECOND AVENUE SUITE 1600

PORTLAND, OR 97204-3157

Phone Number: (503) 227-5631

Fax Number: (503) 228-4373

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-26 11:54:59 ET

Serial Number: 76620735 Assignment Information Trademark Document Retrieval

Registration Number: 3346559

Mark

ROGUE

(words only): ROGUE

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-12-04

Filing Date: 2004-11-15

Transformed into a National Application: No

Registration Date: 2007-12-04

Register: Principal

Law Office Assigned: LAW OFFICE 111

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-12-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Excelled Sheepskin & Leather Coat Corp.

Address:

Excelled Sheepskin & Leather Coat Corp.
485 Seventh Avenue

New York, NY 10018

United States

Legal Entity Type: Corporation

State or Country of Incorporation: New Jersey

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active

men's, ladies' and children's clothing, namely, coats, jackets, vests, shirts and pants

Basis: 1(a)

First Use Date: 1999-12-01

First Use in Commerce Date: 1999-12-01

ADDITIONAL INFORMATION

Prior Registration Number(s):

2790074

2815985

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-12-04 - Registered - Principal Register

2007-09-18 - Published for opposition

2007-08-29 - Notice of publication

2007-08-13 - Law Office Publication Review Completed

2007-08-10 - Approved for Pub - Principal Register (Initial exam)

2007-08-09 - Amendment From Applicant Entered

2007-08-09 - Communication received from applicant

2007-08-06 - PAPER RECEIVED

2007-02-16 - Report Completed Suspension Check Case Still Suspended

2007-02-16 - Assigned To LIE

2006-08-07 - Report Completed Suspension Check Case Still Suspended

2006-01-20 - Letter of suspension mailed

2006-01-20 - Suspension Letter Written

2005-10-28 - Reinstated

2005-11-03 - Petition To Revive-Received

2005-11-03 - PAPER RECEIVED

2005-10-21 - Abandonment Notice Mailed - Failure To Respond

2005-10-20 - Abandonment - Failure To Respond Or Late Response

2005-03-23 - Non-final action mailed

2005-03-23 - Non-Final Action Written

2005-03-22 - Assigned To Examiner

2004-11-30 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Michael A. Grow

Correspondent

MICHAEL A. GROW

ARENT FOX PLLC

1050 CONNECTICUT AVE NW

WASHINGTON, DC 20036-5303

Phone Number: 202-857-6000

Fax Number: 202.857.6395

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-10-26 11:54:52 ET

Serial Number: 77706222 Assignment Information

Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark



ROGUE

(words only): ROGUE

Standard Character claim: Yes

Current Status: A non-final action has been mailed. This is a letter from the examining attorney requesting additional information and/or making an initial refusal. However, no final determination as to the registrability of the mark has been made.

Date of Status: 2009-06-24

Filing Date: 2009-04-03

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 113

Attorney Assigned:
LE KHANH M

Current Location: M4X -TMO Law Office 113 - Examining Attorney Assigned

Date In Location: 2009-06-23

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Excelled Sheepskin & Leather Coat Corp.

Address:

Excelled Sheepskin & Leather Coat Corp.
1400 Broadway
New York, NY 10018
United States
Legal Entity Type: Corporation
State or Country of Incorporation: New Jersey

GOODS AND/OR SERVICES

International Class: 025
Class Status: Active
Hats
Basis: 1(a)
First Use Date: 2009-03-30
First Use in Commerce Date: 2009-03-30

ADDITIONAL INFORMATION

Prior Registration Number(s):
2790074
3346559

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-06-24 - Non-final action mailed
2009-06-23 - Non-Final Action Written
2009-06-23 - Assigned To Examiner
2009-04-07 - New Application Office Supplied Data Entered In Tram
2009-04-07 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Michael A. Grow

Correspondent

MICHAEL A. GROW
ARENT FOX LLP
1050 CONNECTICUT AVE NW
WASHINGTON, DC 20036-5303
Phone Number: 202 857 6389
Fax Number: 202 857 6395

RML JACKSON, LLC
v.
EXCELLED SHEEPSKIN & LEATHER COAT CORPORATION
USDC, Central District of California

COMPLAINT FOR DECLARATORY RELIEF

EXHIBIT 5

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>ESTTA Tracking number: **ESTTA297689**Filing date: **07/28/2009**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Excelled Sheepskin & Leather Coat Corp.		
Entity	Corporation	Citizenship	New Jersey
Address	1400 Broadway New York, NY 10018 UNITED STATES		

Attorney information	Michael A. Grow Arent Fox LLP 1050 Connecticut Avenue, NW Washington, DC 20036 UNITED STATES henrye@arentfox.com, TMDocket@arentfox.com, grow.michael@arentfox.com Phone:202 857 6389
----------------------	---

Applicant Information

Application No	77713053	Publication date	07/21/2009
Opposition Filing Date	07/28/2009	Opposition Period Ends	08/20/2009
Applicant	RML Jackson, LLC 8899 Beverly Blvd., Suite 510 Los Angeles, CA 90048 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Beachwear; Belts; Blouses; Boots; Bottoms; Caps; Coats; Dresses; Footwear; Foul weather gear; Gloves; Hats; Headwear; Hosiery; Jackets; Jeans; Lingerie; Mittens; Neckties; Neckwear; Nightwear; Pajamas; Pants; Pullovers; Rainwear; Robes; Scarves; Shirts; Shoes; Shorts; Skirts; Skorts; Slippers; Sneakers; Socks; Sweat shirts; Sweaters; Swimwear; T-shirts; Ties; Track suits; Undergarments; Vests; Visors
--

Applicant Information

Application No	77713054	Publication date	07/21/2009
Opposition Filing Date	07/28/2009	Opposition Period Ends	08/20/2009
Applicant	RML Jackson, LLC 8899 Beverly Blvd., Suite 510 Los Angeles, CA 90048 UNITED STATES		

Goods/Services Affected by Opposition


Class 025.

All goods and services in the class are opposed, namely: Beachwear; Belts; Blouses; Boots; Bottoms; Caps; Coats; Dresses; Footwear; Foul weather gear; Gloves; Hats; Headwear; Hosiery; Jackets; Jeans; Lingerie; Mittens; Neckties; Neckwear; Nightwear; Pajamas; Pants; Pullovers; Rainwear; Robes; Scarves; Shirts; Shoes; Shorts; Skirts; Skorts; Slippers; Sneakers; Socks; Sweat shirts; Sweaters; Swimwear; T-shirts; Ties; Track suits; Undergarments; Vests; Visors

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3346559	Application Date	11/15/2004
Registration Date	12/04/2007	Foreign Priority Date	NONE
Word Mark	ROGUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1999/12/01 First Use In Commerce: 1999/12/01 men's, ladies' and children's clothing, namely, coats, jackets, vests, shirts and pants		

U.S. Registration No.	2815985	Application Date	04/19/2000
Registration Date	02/24/2004	Foreign Priority Date	NONE
Word Mark	REILLY OLMES ROGUE LEATHER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/02/18 First Use In Commerce: 2000/02/18 Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants		

U.S. Registration No.	2790074	Application Date	04/19/2000
Registration Date	12/09/2003	Foreign Priority Date	NONE

Word Mark	ROGUE LEATHER BY REILLY OLMES
Design Mark	ROGUE LEATHER BY REILLY OLMES
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/01/10 First Use In Commerce: 2000/01/10 Men's, women's and children's clothing made in whole or in substantial part of leather, namely, coats, vests, shirts and pants

Attachments	76620735#TMSN.gif (1 page)(bytes) 76030034#TMSN.gif (1 page)(bytes) rmlopp.pdf (6 pages)(264351 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael A. Grow/
Name	Michael A. Grow
Date	07/28/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 77/713053, BORN ROGUE, and Application No. 77/713054,
BORNROGUE, both published on July 21, 2009

EXCELLED SHEEPSKIN & LEATHER COAT CORP. :

Opposer :

v. :

Opp. No. _____

RML JACKSON, LLC :

Applicant :

NOTICE OF OPPOSITION

Opposer Excelled Sheepskin & Leather Coat Corp. believes that it will be damaged by the registration of the above-identified mark and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of all rights, title and interest in and to a family of marks containing the word ROGUE ("Opposer's Marks") for clothing.
2. Opposer's Marks have become well-known and famous through extensive use and advertising, and they have become a highly valuable symbol of Opposer's goodwill.
3. Since at least as early as 1999, Opposer has been using the mark ROGUE in connection with the advertising and sale of clothing.
4. The Patent and Trademark Office has recognized Opposer's exclusive right to use its Mark by issuing the following registrations:

Reg. No. 3346559, ROGUE, dated December 4, 2007

Reg. No. 2815985, REILLY OLMES ROGUE LEATHER, dated February 24, 2004

Registration No. 2790074, ROGUE LEATHER BY REILLY OLMES, dated December 9, 2003

5. Opposer's registrations are valid and they provide prima facie evidence of Opposer's ownership of and exclusive right to use Opposer's Marks in commerce.
6. Opposer has developed a well known business reputation throughout the United States and Opposer's Marks have been and continues to be widely publicized through substantial advertising expenditures.
7. As a result of the substantial advertising expenditures and extensive sales of services, Opposer's Marks have become well known and famous as a distinctive source indicator and valuable symbol of Opposer's goodwill.
8. Notwithstanding Opposer's prior established rights in its Marks, Applicant filed the above referenced applications for registration of the marks BORN ROGUE and BORNROGUE for clothing, footwear and accessories.
9. Opposer has used ROGUE continuously on or in connection with its goods in interstate commerce since long prior to Applicant's filing date and any first use date that Applicant may claim.
10. Upon information and belief, Applicant made no use of its alleged marks in commerce prior to the filing date of its application.
11. Applicant had actual knowledge of Opposer's prior rights in Opposer's Marks before Applicant filed its applications and Applicant had even place orders for products bearing these marks prior to filing.
12. Applicant has also filed an application for registration of the mark ROGUE, which has been denied because it was deemed confusingly similar to Opposer mark ROGUE.

LIKELIHOOD OF CONFUSION - §2(d)

13. The marks that Applicant seeks to register are identical to or so closely resemble Opposer's Mark that the use and registration thereof is likely to cause confusion, mistake and deception as to the source or origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Marks.

14. The goods of Applicant are so closely related to the goods of Opposer that the public is likely to be confused, to be deceived and to assume erroneously that Applicant's goods are those of Opposer or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage.

15. Likelihood of confusion in this case is enhanced by the fact that prospective purchasers of Applicant's goods are likely to associate Opposer's Mark with goods sold, approved or endorsed by Opposer; moreover, individuals purchasing Applicant's goods are prospective purchasers of Opposer's products and services.

16. Applicant is not affiliated or connected with nor is it approved, endorsed or sponsored by Opposer.

17. Similarly, Opposer has not approved any goods sold or intended for sale by Applicant under the marks BORN ROGUE or BORNROGUE, nor has Opposer granted Applicant permission to use said marks.

DECEPTION/FALSE SUGGESTION OF CONNECTION - §2(a)

18. Applicant's marks so closely resembles Opposer's Mark that they are likely to cause deception in violation of Section 2(a) of the Trademark Act, in that said marks misdescribe the nature or origin of the goods, purchasers are likely to believe that the misdescription actually

describes the nature or origin of the goods, and this is likely to materially alter purchasers' decisions to acquire Applicant's goods.

19. Applicant's alleged marks so closely resemble Opposer's Marks that they falsely suggest a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged marks point uniquely to Opposer, and purchasers will assume that goods sold under Applicant's alleged marks are connected with Opposer.

20. If Applicant's alleged marks are used on goods of the type described in its applications, Applicant's alleged marks will cause purchasers to refrain from purchasing Opposer's authorized goods based on the mistaken assumption that Opposer is endorsing, attempting to promote, or encouraging the sale of Applicant's goods by permitting Applicant to use said marks.

21. Applicant's marks are deceptive in that they falsely suggest a connection with, or approval by, Opposer.

22. Use and registration by Applicant of the marks will deprive Opposer of the ability to protect its reputation, persona and goodwill.

23. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will attribute those defects to Opposer and this will injure Opposer's reputation and goodwill.

24. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark and registration should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

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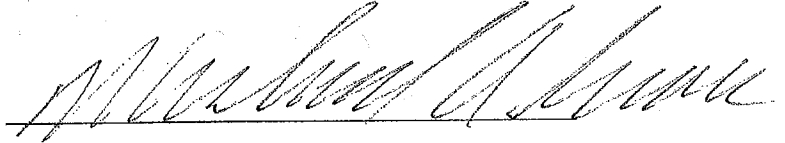
By

A handwritten signature in dark ink, appearing to read "Michael A. Grow", is written over a horizontal line.

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing is being served upon Applicant's counsel Diane L. Gardner of Mastermind IP Law P.C. at 421 Santa Marina Court, Escondido, California 92029, by first class mail, postage prepaid, on July 28, 2009.

A handwritten signature in black ink, appearing to read "Diane L. Gardner", is written over a horizontal line.